IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CRIMINAL APPEAL No. 482 of 2005

For Approval and Signature:
HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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THE STATE OF GUJARAT - Appellant(s)
Versus
KANUBHAI DAHYABHAI VALAND - Opponent(s)

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Appearance :
MR IM PANDYA, ASST. UBLIC PROSECUTOR for Appellant(s) : 1,
None for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 29/06/2006

ORAL JUDGMENT

1. The appellant – State of Gujarat has preferred this appeal under Section 377 of the Code of Criminal Procedure; 1973 challenging the order dated 15th January, 2005 passed by the Special Judge & Additional Sessions Judge, Fast Track Court No.3, Panchmahals at Godhra, in Special

Electricity Case No. 4 of 2004 on the ground that the punishment of simple imprisonment for one year is inadequate and disproportionate in view of gravity of the offence committed.

2. Heard Shri Pandya, learned APP, at length and perused the record available with Shri Pandya of the Special Electricity Case No. 4 of 2004. The case of the prosecution was that on 15th October, 2004, the witness No.1 had gone to checking Gitanagar in Halol with the staff of Kalol Sub-Division for checking. They had visited the place of the accused and detected electricity theft. The accused was said to have taken electric connection from the neighbouring residence of one Shri Harshadbhai Dahyabhai. This electric connection was taken by the accused with the help of black colour flexible wire. The wire was produced on the record. The accused was alleged to have consumed electricity worth Rs.7700/- by such unauthorized connection. The wire though stated to have been flexible, in fact, it was not flexible at the relevant place

and there were three Meters installed. The accused has been convicted for an offence punishable under Section 135(1)(A) of the Electricity Act; 2003 and sentenced to undergo simple imprisonment for one year. The Section 135(1) of the Electricity Act; 2003, reads as under :-

“135.(1) Whoever, dishonestly, -

(a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee; or

(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or

(c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity,

so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both;"

3. The amount of electricity used indicates that the sentence imposed is not disproportionate. The Section provides for punishment of imprisonment for a term which may extend to three years or with fine or with both. This discretion is to be used keeping in mind the gravity of the offence and the modus operandi of the accused. In the instant case, the electricity is alleged to have been taken illegally for residential premises, which was found to be in a locked condition. In view of this, the order of punishment does not seem to be suffering from any error calling for interference at the hands of this Court in the present appeal. In view of this, the appeal being bereft of merits, the same deserves to be rejected and is, accordingly, rejected.

(S.R.BRAHMBHATT, J.)

kdc.